

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CARTIER, a division of RICHEMONT	:	
NORTH AMERICA, INC., CARTIER	:	
INTERNATIONAL, N.V., CARTIER	:	
CREATION STUDIO, S.A., VAN CLEEF	:	
& ARPELS S.A., VAN CLEEF &	:	
ARPELS, INC., VAN CLEEF & ARPELS	:	
DISTRIBUTION, INC., GUCCI	:	
AMERICA, INC., and BULGARI S.p.A.,	:	
	:	
Plaintiffs,	:	
	:	Case No. 07-7862 (SAS)
vs.	:	
	:	Defendant's Answer
	:	to First Amended
	:	Complaint
ELENA CASTANEDA and EJEWELER LLC	:	
d/b/a OVERSTOCKJEWELER.COM,	:	
	:	
Defendants.	:	
	:	

Defendants Elena Castaneda (“Castaneda”) and Ejeweler LLC (“Ejeweler”) d/b/a Overstockjeweler.com (collectively “Defendants”), by and through her attorneys, Zarin & Associates P.C., answers Plaintiffs Complaint, as follows:

Nature of the Action

1. Defendants admit the allegations contained in paragraph 1 of the Complaint that Plaintiffs seek injunctive relief and damages for copyright infringement, trade dress infringement, design patent infringement, false advertising, unfair competition, and unfair and deceptive practices, but denies the allegation that Defendants engaged in these practices.

Jurisdiction and Venue

2. Defendants admit the allegation contained in paragraph 2 of the Complaint to the extent that it asserts that this Court maintains subject matter jurisdiction, pursuant to 28 U.S.C. §1331, 28 U.S.C. §1338 and 15 U.S.C. §1121, over the claims lodged by Plaintiffs which arise under the Copyright Act, the Trademark Act and the Patent Laws, but deny the allegation to the extent that it suggests that the Court maintains subject matter jurisdiction over Plaintiffs claims which arise under the common and statutory laws of the State of New York.

3. Defendants admit the allegations contained in paragraph 3 of the Complaint.

The Parties

4. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 4 of the Complaint.

5. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 5 of the Complaint.

6. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 6 of the Complaint.

7. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 7 of the Complaint.

8. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 8 of the Complaint.

9. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 9 of the Complaint.

10. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 10 of the Complaint.

11. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 11 of the Complaint.

12. Defendants admit the allegations contained in paragraph 12 of the Complaint.

13. Defendants admit the allegation contained in paragraph 13 of the Complaint that Castaneda is an individual residing at 351 East 84th Street, New York, NY, but deny all other allegations contained in this paragraph.

The Cartier Brand and Business

14. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 14 of the Complaint.

15. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 15 of the Complaint.

16. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 16 of the Complaint.

17. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 17 of the Complaint.

18. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 18 of the Complaint.

The Cartier Trademarks

19. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 19 of the Complaint.

20. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 20 of the Complaint.

21. Defendants accept this designation for the purposes of the Amended Complaint.

22. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 22 of the Complaint.

23. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 23 of the Complaint.

The Cartier Copyrighted Designs

24. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 24 of the Complaint.

25. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 25 of the Complaint.

26. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 26 of the Complaint.

27. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 27 of the Complaint.

28. Defendants admit the allegation contained in paragraph 28 of the Complaint that the United States and France are signatories to the Berne Convention, but deny all other allegations contained in this paragraph.

29. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 29 of the Complaint.

The Cartier Design Patents

30. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 30 of the Complaint.

31. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 31 of the Complaint.

32. Defendants accept this designation for the purposes of the Amended Complaint.

33. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 33 of the Complaint.

34. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 34 of the Complaint.

The Van Cleef Brand and Business

35. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 35 of the Complaint.

36. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 36 of the Complaint.

37. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 37 of the Complaint.

38. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 38 of the Complaint.

39. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 39 of the Complaint.

40. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 40 of the Complaint.

The Van Cleef Trademarks

41. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 41 of the Complaint.

42. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 42 of the Complaint.

43. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 43 of the Complaint.

44. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 44 of the Complaint.

45. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 45 of the Complaint.

46. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 46 of the Complaint.

47. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 47 of the Complaint.

The Van Cleef Copyrighted Design

48. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 48 of the Complaint.

49. Defendants admit the allegation contained in paragraph 49 of the Complaint that the United States and France are signatories to the Berne Convention, but deny all other allegations contained in this paragraph.

50. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 50 of the Complaint.

The Van Cleef Trade Dress Designs

51. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 51 of the Complaint.

52. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 52 of the Complaint.

53. Defendants accept this designation for the purposes of the Amended Complaint.

54. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 54 of the Complaint.

55. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 55 of the Complaint.

The Gucci Brand and Business

56. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 56 of the Complaint.

57. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 57 of the Complaint.

58. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 58 of the Complaint.

59. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 59 of the Complaint.

The Gucci Trademarks

60. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 60 of the Complaint.

61. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 61 of the Complaint.

62. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 62 of the Complaint.

63. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 63 of the Complaint.

64. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 64 of the Complaint.

65. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 65 of the Complaint.

66. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 66 of the Complaint.

The Gucci Copyrighted Designs

67. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 67 of the Complaint.

68. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 68 of the Complaint.

69. Defendants accept this designation for the purposes of the Amended Complaint.

70. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 70 of the Complaint.

71. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 71 of the Complaint.

The Bulgari Brand and Business

72. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 72 of the Complaint.

73. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 73 of the Complaint.

74. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 74 of the Complaint.

75. Defendants deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 75 of the Complaint.